HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 987 (SS) OF 2003

Sher Singh,
S/o late Shri Madan Singh,
Village – Lakhnadi, P.O. Someshwar,
District–Almora. .....Petitioner.

Versus

1. General Manager,
   State Bank of India,
   Regional Head Office Moti Mohal Marg,
   Lucknow.
2. Deputy General Manager,
   State Bank of India,
   Zonal Office, 148, Civil Lines, Bareilly.
3. Branch Manager,
   State Bank of India,
   Hassan Pur, District-Moradabad (U.P.).

.....Respondents.

Dated: 29.03.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Raman Shah, Advocate for the petitioner and Sri Ashish Joshi, Advocate for the respondents.

2. By the present writ petition, the petitioner has prayed for a writ of Certiorari quashing the order dated 26.06.2002 passed by the respondents (Annexure No. 8 to the writ petition). Further prayer has been made for a writ of Mandamus commanding and directing the respondents to

appoint the petitioner under Dying Harness Rules according to his educational qualification.

3. Briefly stated, according to the petitioner, his father, who was posted as Security Guard in Hassan Pur Branch of State Bank of India, District Moradabad died on 04.04.2001 while in service.

4. At the time of death of his father, the petitioner was 8th passed qualified person and he moved a representation before the respondent no.2 on 04.06.2001, which was filed within time.

5. When, no response was given regarding his representation, petitioner again moved a representation on 26.04.2002 and a representation was moved through his mother on 26.07.2002 and on 13.11.2002 before the respondent no. 1 for compassionate appointment.

6. The respondents have rejected the claim of the petitioner vide order dated 26.06.2002 on the ground that the financial condition of late Shri Madan Singh cannot be termed as penurious.

7. The petitioner has submitted that the financial condition of his family is not sound and the family pension which is being granted by the respondents is not sufficient for survival of his family.

8. In the case of ***Smt. Sushma Gosain and others Vs. Union of India and others, 1989 (4) SCC, 468,*** the Apex Court has held as under:-

> "*We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant.*
>
> *In the result, we allow the appeal and in reversal of the order of the High Court, we direct respondent no. 2 to appoint Sushma Gosain appellant in the post to which she has already qualified. We further direct that she shall be appointed in an appropriate place in Delhi itself. The appointment shall be made within three weeks from today.*"

9. It is well settled that appointment on the compassionate ground is purely humanitarian consideration because of the fact that family will not be able to make both ends meet. The purpose of providing employment to the dependant of a Government servant dying-in-harness in preference to anybody else is to mitigate the hardship caused to the family of the deceased on account of his unexpected death while in service. Thus compassionate appointment is treated to alleviate the distress of the family.

10. In view of the above, a writ of certiorari is issued quashing the order-dated 26.06.2002. However, the matter is sent back before the authority concerned, which shall reconsider the case of the petitioner for appointment on compassionate ground taking into consideration the observations made above.

11. Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

29.03.2006
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